



GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

2012 REGULAR SESSION

HOUSE BILL NO. 347

THURSDAY, FEBRUARY 9, 2012

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE March 28, 2012
2:48 pm
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Kim Perry

1 AN ACT relating to defective new motor vehicles.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 367.842 is amended to read as follows:

4 (1) If, after a reasonable number of attempts, the manufacturer or its agents are unable
5 to repair the nonconformity in the motor vehicle to the express warranty during the
6 first twelve thousand (12,000) miles of operation or during the first twelve (12)
7 months following the date of delivery to the buyer, whichever is the earlier date,
8 that buyer shall report the nonconformity, in writing, to the manufacturer.

9 (2) If, within the period specified in subsection (1) of this section, the manufacturer or
10 its agents, are unable to repair or correct any nonconformity or defect that
11 substantially impairs the use, value, or safety of the motor vehicle, after a
12 reasonable number of attempts, the manufacturer, at the option of the buyer, shall
13 replace the motor vehicle with a comparable motor vehicle, or accept return of the
14 vehicle from the buyer and refund to the buyer the full purchase price. The full
15 purchase price shall include the amount paid for the motor vehicle, finance charge,
16 all sales tax, license fee, registration fee, and any similar governmental charges plus
17 all collateral charges, less a reasonable allowance for the buyer's use of the vehicle.
18 Refunds shall be made to the buyer and lienholder, if any, as their interests may
19 appear on the records of ownership kept by the Department of Vehicle Regulation.

20 The provisions of this section shall not affect the interests of a lienholder, unless the
21 lienholder consents to the replacement of the lien with a corresponding lien on the
22 automobile accepted by the consumer in exchange for the automobile having a
23 ~~nonconformity~~, the lienholder shall be paid in full the amount due on the lien,
24 ~~including finance charges and other charges, before an exchange of automobiles or~~
25 ~~a refund to the consumer is made.~~ It shall be an affirmative defense to any claim
26 ~~under this section that:~~

27 (a) The nonconformity, defect, or condition does not substantially impair the use,

1 value, or safety of the motor vehicle; or

2 (b) The nonconformity, defect, or condition is the result of abuse, neglect, or
3 unauthorized modification or alteration of the motor vehicle by the buyer.

4 (3) It shall be presumed that a reasonable number of attempts have been undertaken to
5 conform a motor vehicle to the applicable express warranty if, within the first
6 twelve thousand (12,000) miles of operation or during the period of, twelve (12)
7 months following the date of original delivery of the motor vehicle to the buyer,
8 whichever is the earlier date:

9 (a) The same nonconformity, defect, or condition has been subject to repair four
10 (4) or more times by the manufacturer, but such nonconformity, defect, or
11 condition continues to exist; or

12 (b) The vehicle is out of service/use by reason of repair of the same
13 nonconformity, defect, or condition for a cumulative total of at least thirty
14 (30) calendar days. The time period described in this paragraph shall be
15 extended by a reasonable time when a vehicle cannot be repaired due to the
16 unavailability of parts or supplies as a result of war, invasion, civil unrest,
17 fire, flood, or natural disaster.

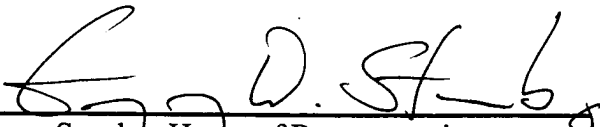
18 (4) Disputes arising under subsection (2) of this section concerning refund or
19 replacement shall be resolved through the dispute resolution system established
20 under either KRS 367.860 to 367.870, or 16 C.F.R. part 703. Such remedy shall be
21 pursued prior to seeking any judicial relief under KRS 367.843.

22 (5) Nothing in this chapter may be construed as imposing any liability on a dealer or
23 creating a cause of action by a consumer against a dealer.

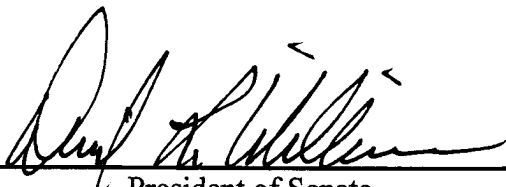
24 (6) Nothing in this section shall in any way limit the rights or remedies which are
25 otherwise available to a buyer under any other law.

26 (7) Any agreement entered into by a buyer for the purchase of a new motor vehicle
27 which waives, limits, or disclaims the rights set forth in this section shall be void as

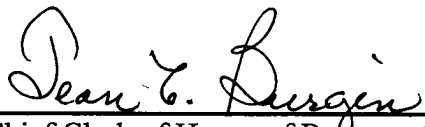
- 1 contrary to public policy.
- 2 (8) Any action brought pursuant to this section shall be commenced within two (2)
- 3 years after the date of original delivery of the new motor vehicle to the buyer.
- 4 (9) A court may award reasonable attorney's fees to a prevailing plaintiff.



Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-28-12